

CHAPTER 75-03-07.1
AFFIDAVIT OF STANDARD COMPLIANCE AND CHILD CARE PROVIDER
CERTIFICATION EARLY CHILDHOOD SERVICES

Section

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75-03-07.1-01. Fees. A fee of fifteen dollars must accompany the affidavit for a standard compliance certification document. The fee will go to the county social service board for training and education of the county social service board for training and education of the county staff who administers the standard compliance certification program.

History: Effective June 1, 1995.

General Authority: NDCC 50-11.1-08, 42 CFR Part 98

Law Implemented: NDCC 50-11.1-08

75-03-07.1-02. Standard compliance certification standards.

1. An affidavit for a standard compliance certification document must be submitted to the county social service board in the county in which the applicant proposes to provide early childhood services. An affidavit must be made in the form and manner prescribed by the department. The affidavit must include the following sworn statement:

I am not required by North Dakota state law (Chapter 50-11.1) to be licensed to provide early childhood services.

- a. A license is required if care is provided for six or more children or for four or more infants.
 - b. An "infant" means a child who is less than twenty-four months of age.
2. Applicants for standard compliance certification document shall be directly responsible for the care, supervision, and guidance of the child or children and shall comply with the following standards, certifying:
 - a. That the applicant:
 - (1) Is at least eighteen years of age;

- (2) Is mentally, physically, and emotionally able to provide adequate care for the children in the applicant's charge;
 - (3) Is able to devote adequate time and attention to the children in the applicant's charge;
 - (4) Will provide food of sufficient quantity and nutritious quality which satisfies the dietary needs of the children while in the applicant's charge;
 - (5) Will provide proper health care and protection for children in the applicant's charge;
 - (6) Will not use any drugs or alcoholic beverages except for medical purposes while children are in care;
 - (7) Will not leave children without supervision;
 - (8) Will provide care on a continuing basis for less than a twenty-four-hour period;
 - (9) Will annually check the immunization records of the children in the applicant's care; and
 - (10) Will be certified in cardiopulmonary resuscitation and first aid. If the provider is not certified at the time of initial standard compliance certification, the provider shall be certified in cardiopulmonary resuscitation and first aid at the time of subsequent standard compliance certification renewal.
- b. That discipline will be constructive or educational in nature and may include diversion, separation from the problem situation, talk with the child about the situation, praise for appropriate behavior, and gentle physical restraint such as holding. Children may not be subjected to physical harm or humiliation. Disregard of any of the following disciplinary rules or any disciplinary measure resulting in physical or emotional injury or abuse to any child is grounds for denial or revocation of a standard compliance certification.
- (1) No child may be punched, spanked, shaken, pinched, bitten, roughly handled, or struck by the caretaker or any other adult in the facility.
 - (2) Authority to discipline may not be delegated to or be accomplished by children.
 - (3) Separation, when used as discipline, must be brief and appropriate to the child's age and circumstances, and the child must be in a safe, lighted, well-ventilated room within

hearing of an adult. No child may be isolated in a locked room or closet.

- (4) No child may be physically punished for lapses in toilet training.
 - (5) Verbal abuse or derogatory remarks about the child, the child's family, race, religion, or profane, threatening, unduly loud, or abusive language is not to be used when addressing children or in the presence of children.
 - (6) No child may be force-fed unless medically prescribed and administered under a physician's care.
 - (7) Deprivation of meals may not be used as a form of discipline or punishment.
- c. That a working smoke detector will be installed on each floor used by children.
 - d. That a fire extinguisher that is inspected annually will be installed in locations used for child care.
 - e. That a working telephone will be available in the location used for child care.
 - f. That the child care location have a means of transporting children who are in care at the facility.
- 3. If the physical or mental health capabilities of a provider appear to be questionable, the department may request that the provider present evidence of capability to provide the required care based on a formal evaluation.
 - 4. A standard compliance certification is only effective for one year.

History: Effective June 1, 1995.

General Authority: NDCC 50-11.1-08, 42 CFR Part 98

Law Implemented: NDCC 50-11.1-06, 50-11.1-08

75-03-07.1-03. Smoke-free environment. Smoking is not permitted at any time in an early childhood care facility while a child receives care.

History: Effective June 1, 1995.

General Authority: NDCC 23-12-10, 50-11.1-02.2; 42 CFR Part 98

Law Implemented: NDCC 50-11.1-02.2

75-03-07.1-04. Standard compliance certification restricted to one per household or address - Nontransferability of early childhood services standard compliance certification.

1. Only one standard compliance certification per address shall be authorized by the department. Only one person residing in or representing an address will be allowed to self-certify as a provider of early child care services at any one time.
2. The standard compliance certification provider shall be on the premises at all times while children are present.
3. The standard compliance certification granted to a provider is nontransferable.

History: Effective June 1, 1995.

General Authority: NDCC 50-11.1-08; 42 CFR Part 98

Law Implemented: NDCC 50-11.1-04

75-03-07.1-05. Appeals. Applicants for a standard compliance certification or holders of a standard compliance certification have the right to appeal a decision to deny or revoke a standard compliance certification. The appeal must be filed in writing with the department within ten days of receipt of written notice of such a decision. Upon receipt of a timely appeal, an administrative hearing shall be conducted in the manner prescribed by chapter 75-01-03.

History: Effective June 1, 1995.

General Authority: NDCC 50-11.1-08; 42 CFR Part 98

Law Implemented: NDCC 50-11.1-09, 50-11.1-10

75-03-07.1-06. Revocation of standard compliance certification.

1. The right to provide early childhood services is dependent upon the provider's continuing compliance with the terms of the application affidavit as listed in section 75-03-07.1-02.
2. A fraudulent application is grounds for revocation or denial.
3. The applicant, standard compliance certification provider, or members of the household shall not have been found guilty or pled guilty of offenses which, in the view of the department, directly impact the ability of the registrant to serve the public as a child care provider. Conviction may be grounds for denial or revocation of the standard compliance certification. The applicant for standard compliance certification shall not have been found guilty of or pled guilty to an offense contained in North Dakota Century Code chapters 12.1-11, perjury - falsification - breach of duty; 12.1-12, bribery - unlawful influence of public servants; 12.1-16, homicide; 12.1-17, assaults - threats - coercion; 12.1-18, kidnapping; 12.1-20, sex offenses; 12.1-21, damaging property or

public services; 12.1-22, robbery - breaking and entering offenses; 12.1-23, theft and related offenses; 12.1-24, forgery and counterfeiting; 12.1-27.1, obscenity control; 12.1-27.2, sexual performances by children; 12.1-28, gambling and related offenses; 12.1-28, prostitution; and 12.1-31, disorderly conduct - usury - tobacco to minors.

4. The applicant shall be issued a standard compliance certification, even if the applicant has pled or been found guilty of an offense under subsection 2, if the applicant has been determined by the department to be sufficiently rehabilitated.
5. Standard compliance certification providers shall ensure care for the children receiving services in their facility. If there exists a probable cause determination under North Dakota Century Code chapter 50-25.1 and under chapter 75-03-19 indicating that any child has been abused or neglected by the standard compliance certification provider or members of the household, the person shall furnish information to the department, from which the department can determine the provider's current ability to provide care that is free of abuse or neglect. The department shall furnish the determination of ability to the operator and to the regional director of the human service center or his designee for consideration and action on the standard compliance certification document. Appeal of departmental determinations are under chapters 75-01-03 and 75-03-18.

History: Effective June 1, 1995.

General Authority: NDCC 50-11.1-09; 42 CFR Part 98

Law Implemented: NDCC 50-11.1-09